

# Exhibit C

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF VIRGINIA  
ROANOKE DIVISION

BRANDON LESTER	§	
	§	
vs.	§	CIVIL ACTION NO.
	§	7:15-CV-665
SMC TRANSPORT, LLC AND ISRAEL	§	
MARTINEZ, JR. AND SALINAS	§	
EXPRESS, LLC	§	
	§	

ORAL AND VIDEOTAPED DEPOSITION  
ROY SALINAS  
April 19, 2016

ORAL AND VIDEOTAPED DEPOSITION OF ROY  
SALINAS, produced as a witness at the instance of the  
Plaintiff and duly sworn, was taken in the above-styled  
and numbered cause on April 19, 2016, from 9:23 a.m. to  
11:48 a.m., before Annette E. Escobar, Certified Shorthand  
Reporter in and for the State of Texas, reported by  
computerized stenotype machine at the offices of La Posada  
Hotel, La Posada Hotel, 1000 Zaragoza Street Laredo, The  
Blue Bonnet Conference Room, Texas, pursuant to the  
Federal Rules of Civil Procedure and the provisions stated  
on the record or attached hereto.

COPY

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25

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P-R-O-C-E-E-D-I-N-G-S

Whereupon,

9:23 a.m.

MR. FRANKL: Based on an agreement of all the parties for all the depositions that are being taken in this matter, there's an agreement between counsel that all objections, except for the form of the question are reserved.

Is everyone in agreement with that?

MS. WHITE: Yes.

MR. HEARN: Yes.

MR. DUNN: Off the record for a second.

(Discussion off the record had.)

MR. DUNN: Yes, I agree.

THE VIDEOGRAPHER: We're on the record.

Today's date is April the 19th of the year 2016. The time is approximately 9:23 in the morning, and you may proceed with the deposition, please.

ROY SALINAS,  
having been first duly sworn, testified as follows:

EXAMINATION

BY MS. WHITE:

Q Good morning, Mr. Salinas. My name is Johneal White and I represent a young man, Brandon Lester, in a lawsuit brought against Israel Martinez, SMC Transport,

1 and Salinas Express. Can you just state your full name  
2 for the record.

3 A Roy Salinas.

4 Q And what's your current address?

5 A 2304 Brazos Street.

6 Q How do you spell that?

7 A B-R-A-Z-O-S.

8 Q Is that in Zapata?

9 A Zapata.

10 Q Who lives there with you?

11 A Who live there with me?

12 Q Yeah.

13 A My wife and three kids.

14 Q What's your wife's name?

15 A Cynthia Salinas.

16 Q How old are your children?

17 A Twenty, 18 and 14.

18 Q How long have you been married?

19 A I've been married with her three years.

20 Q Are you currently employed?

21 A Yes, ma'am.

22 Q Where do you work?

23 A Salinas Express.

24 Q How long have you worked there?

25 A Two years.

1 Q Do you know the date you started working there?

2 A I'm not sure, ma'am.

3 Q Would it have been in 2014?

4 A I'm not sure, ma'am. I'm not sure.

5 Q But you've been working there approximately two  
6 years from today's date, which is April 2016?

7 A Approximately, yes, ma'am.

8 Q What do you do there?

9 A Truck driver.

10 MS. WHITE: Is that really going to  
11 interfere with the audio?

12 THE VIDEOGRAPHER: I can hear it but,  
13 faint.

14 Q (By Ms. White) How long have you been a truck  
15 driver?

16 A Since 1990.

17 Q Do you have a commercial driver's license?

18 A Yes, ma'am.

19 Q Issued from the State of Texas?

20 A Yes, ma'am.

21 Q Tell me who owns Salinas Express?

22 A Rudy Salinas and Sylvia Salinas.

23 Q And Roy is your brother?

24 A Rudy is my brother.

25 Q And --

1 A Sylvia is my sister.

2 Q How long have they operated that company?

3 A Like two years we opened it.

4 Q So you've been starting working there since the  
5 beginning?

6 A Since almost the beginning, yes, ma'am.

7 Q Do you personally own any of the tractors?

8 A I'm buying one from my brother.

9 Q Sorry. You have -- and I got that question out  
10 poorly, but please for the record, let me finish the  
11 question before you answer. I know you're just trying to  
12 be helpful.

13 A Okay.

14 Q Do you personally own any of the tractors that  
15 Salinas Express uses?

16 A Yes, I'm buying one from my of brother.

17 Q Which one?

18 A The gray Peterbilt was involved in the incident.

19 Q Do you know what year it is?

20 A It's an '88 Peterbilt.

21 Q And it was the one involved in this accident  
22 that we're about here today?

23 A Yes, ma'am.

24 Q Do you know who that vehicle is titled to?

25 A I think it's under my brother's name.



1 Q Rudy Salinas?

2 A Uh-huh.

3 Q Yes?

4 A Yes, ma'am.

5 Q Is it also jointly titled with another company,  
6 Suarez Brothers Towing?

7 A No, ma'am.

8 Q Is there any sort of, do you guys have any sort  
9 of written agreement governing your purchase of that  
10 truck?

11 A No, ma'am.

12 Q What is your agreement with regard to your  
13 purchase of that truck?

14 A Just by me and brother, we're family. I'm just  
15 paying him off.

16 Q Did you agree to pay him a certain sum?

17 A No, ma'am.

18 Q Well, so how do you know when the truck is  
19 yours?

20 A Well, I just pay him whatever, like when I work  
21 whatever I get left I give him whatever I want. He didn't  
22 put me specific amount, like you gotta give me so much a  
23 month. So like if I got a bad week, I won't give him  
24 nothing like until the next week, or whatever.

25 Q Did you agree on a certain sum that you would

1 pay him, the total?

2 A Total for the truck?

3 Q Yeah.

4 A Yes, ma'am. I was going pay him 18, 18,000.

5 Q Do you know how much you've paid on it?

6 A I'm not sure right now, ma'am.

7 Q Does he keep a record of it?

8 A Probably.

9 Q And how long have you been paying him for the  
10 truck?

11 A I think I started like a year ago.

12 Q He already owned the truck when you started  
13 that?

14 A Yes, ma'am.

15 Q You have not paid off the amount entirely?

16 A No, ma'am.

17 Q And he's never signed title over to you?

18 A No, ma'am.

19 Q Do you use that vehicle, the 1988 Peterbilt, to  
20 drive for anyone other than Salinas Express?

21 A No, ma'am.

22 Q How many other trucks does Salinas Express own  
23 or lease?

24 A I'm not sure, ma'am.

25 Q Does your brother Rudy own or use one for

1     himself?

2           A     I'm not sure because -- I'm not sure because  
3     he's never like he's always at the house.

4           Q     He's never what?

5           A     Like, he don't go out much on the loads, like,  
6     only when somebody doesn't go to work or something.

7           Q     Well, does Salinas Express have a 2000  
8     Peterbilt?

9           A     Yes, ma'am.

10          Q     Does Eddie Lozano drive that?

11          A     Yes, ma'am.

12          Q     And did it have a 2005 Volvo truck?

13          A     I don't know, ma'am. We got three Volvos, I  
14     don't know what's the year on them.

15          Q     So there are three Volvos?

16          A     Uh-huh.

17          Q     Yes? Sorry, you have to say yes or no.

18     Uh-huhs, unh-unhs don't translate well on paper.

19          A     Yes, ma'am.

20          Q     So they have three Volvos. Who drives those?

21          A     I don't know. I don't know the name of the  
22     drivers, ma'am. I don't keep up with that.

23          Q     And then do they have a 2001 Peterbilt?

24          A     I'm not sure, ma'am.

25          Q     And then a 1997 Peterbilt?

1 A Yes, ma'am. What I understand, yes.

2 Q Do you know who drives that one?

3 A That one Ruben Hernandez drives it, the driver.

4 Q Ruben Hernandez?

5 A Hernandez, yes.

6 Q Hernandez.

7 Currently, do you know the names of people  
8 who are driving for Salinas Express?

9 A No, ma'am, because we got new drivers. So I  
10 mean, I'm not in charge of hiring, or I don't know. I  
11 don't know their names.

12 Q Well, there's you, correct?

13 A Yes, ma'am.

14 Q Israel Martinez, he's not driving for Salinas --

15 A No, ma'am.

16 Q -- anymore? Eddie Lozano still drives for  
17 Salinas Express?

18 A Yes, ma'am.

19 Q What about Ruben Salinas Jr., does he drive for  
20 Salinas Express?

21 A Yes, ma'am.

22 Q Ruben Hernandez, does he still drives for  
23 Salinas Express?

24 A No, he just quit yesterday.

25 Q Do you know why he quit?

1 A He bought a truck for himself.

2 Q Is he going to lease on with you guys?

3 A No, ma'am.

4 Q Anyone else who regularly drives a Salinas  
5 Express truck?

6 A No, ma'am.

7 Q When you first started working for Salinas  
8 Express did you fill out an employment application?

9 A Yes, ma'am.

10 Q Was that when you first started working there?

11 A Yes, ma'am.

12 THE VIDEOGRAPHER: Ma'am, if you can put  
13 your mic a little higher so I can get a louder sound.

14 (Exhibit marked for identification as  
15 Deposition Exhibit Number 8.)

16 Q (By Ms. White) I want to show you what's been  
17 marked for identification as Exhibit 8 and ask you to just  
18 look over that for a minute.

19 A Look through all the pages?

20 Q Have you had a chance to look through that?

21 A Yes, ma'am.

22 Q Is that employment application that you filled  
23 out --

24 A Yes, ma'am.

25 Q -- for Salinas Express?

1 A Yes, ma'am.

2 Q Did you fill that out in September 2015?

3 A Yes, ma'am.

4 Q Had you ever filled out one before that?

5 A No, ma'am, I didn't.

6 Q But you had been working there before that?

7 A Yes, ma'am.

8 Q Do you know why you had to fill that out in  
9 September 2015?

10 A Well, I was working for SMC Transport before so  
11 I would help out my brother and like both companies.

12 Q Oh, so you were working for SMC Transport?

13 A Yeah, I worked for him for a year.

14 Q So SMC Transport is owned by Sergio Cuellar?

15 A Yes, ma'am.

16 Q Is there anyone else involved in that company?

17 A I'm not sure, ma'am.

18 Q Is Sergio your main contact?

19 A Yes.

20 Q Is he your cousin?

21 A That's correct.

22 Q When did you start working for SMC Transport?

23 A I was with him a year or so.

24 Q A year from --

25 A Before this date, yes.

1 Q So maybe from September 2014, around that time?

2 A Uh-huh. More or less, yes, ma'am.

3 Q And what did you do for them?

4 A Truck driver.

5 Q Was there a period of time where you worked for  
6 both companies?

7 A Well, I was leased with SMC and I would pull  
8 loads for my brother, like, help him out because I'm --  
9 I -- my own truck so I would help them out in both  
10 companies.

11 Q Which truck?

12 A The '88 Peterbilt.

13 Q So you would use the 1988 Peterbilt to do jobs  
14 for SMC Transport?

15 A Uh-huh.

16 Q Yes?

17 A Yes, ma'am.

18 Q Do you still do that?

19 A No, ma'am.

20 Q When did you stop doing that?

21 A When I got leased through Salinas Express.

22 Q And was there a reason why you switched?

23 A Yes, ma'am.

24 Q Why is that?

25 A Because when we first opened the company,

1 Salinas, I couldn't, like, the insurance, I think you can  
2 only lease, like, five or six trucks the first year and  
3 after that you can, like, get more trucks after that year.  
4 That's why I got leased on to SMC.

5 Q When was the last time that you worked for SMC  
6 Transport?

7 A Like, September. I say September 15.

8 Q Are you familiar with the SMC Transport truck  
9 that was involved in this accident?

10 A Yes, ma'am.

11 Q Had you regularly driven that truck before?

12 A Yes, ma'am.

13 Q Did that truck always have that wench on it that  
14 was on it at the time of the accident?

15 A No, ma'am.

16 Q Do you know when that got put on the truck?

17 A I'm not sure, ma'am.

18 Q Do you know, how long has SMC Transport had that  
19 wench?

20 A I'm not sure.

21 Q When you were at Salinas Express truck broke  
22 down in Virginia, were you aware that SMC had a wench that  
23 could tow that truck though?

24 A Yes, ma'am.

25 Q And was it your idea from the beginning that you



1 could get them to help out in hauling your truck back?

2 MR. DUNN: Object to form.

3 A No, ma'am.

4 Q When did you come up with idea, or came up with  
5 that idea?

6 MR. DUNN: Note my objection. You  
7 understand my objection? They didn't have -- they, SMC  
8 Transport didn't help out.

9 MS. WHITE: I understand.

10 MR. DUNN: So I just want to make sure  
11 you're aware of that to see if you can clarify that.

12 Q (By Ms. White) Who came up with the idea to  
13 borrow the SMC truck to tow the Salinas truck?

14 A I talked to my cousin.

15 Q Sergio.

16 A To Sergio.

17 Q And did you ask him if you could borrow the SMC  
18 truck?

19 A Well, asked him if he could help me out to pick  
20 up my truck.

21 Q And did he suggest that you use his truck?

22 A He volunteered, like, I could use his truck, the  
23 black one.

24 Q So was it his idea or was it your idea?

25 A Well, it was all his idea.

1 Q We'll come back to that. I'm going to  
2 backtrack.

3 Where did you work -- so before Salinas you  
4 worked for SMC?

5 A Yes, ma'am.

6 Q And you worked for them for about a year?

7 A Yes, ma'am.

8 Q Where did you work before that?

9 A I was in prison.

10 Q And that naturally leads to my question which I  
11 have to ask everyone, it's not personal.

12 Have you ever been convicted a felony?

13 A Yes, ma'am.

14 Q How many?

15 A Not sure.

16 Q What about a crime involving lying, cheating or  
17 stealing?

18 A No, ma'am.

19 Q How long were you in prison?

20 A Ten years.

21 Q So fair to say you weren't driving a truck  
22 during that period of time?

23 A That's correct.

24 Q Did you finish high school?

25 A No, ma'am.

1 Q How far did you go in school?

2 A Ninth grade.

3 Q Did you grow up in Zapata?

4 A I grew up in Weslaco.

5 Q Israel Martinez, is he a relation of yours?

6 A No, ma'am.

7 Q He's not some sort of distant cousin?

8 A No, ma'am.

9 Q Is he related to your brother Rudy at all?

10 A No, ma'am.

11 Q How long have you known him?

12 A I'm not sure, ma'am.

13 Q Do you remember when you first, what the  
14 circumstances were when you first met him?

15 A Was, like, probably a month, month before he  
16 went to help me out.

17 Q In Virginia?

18 A Yes, ma'am.

19 Q Did he know Rudy before that?

20 A I'm not sure, ma'am.

21 Q So you only knew him through working for Salinas  
22 Express?

23 A Uh-huh. That's correct.

24 Q Did you guys socialize outside of work?

25 A No, ma'am.

1 Q So your only connection was through your  
2 employment with Salinas Express?

3 A That's correct.

4 Q Has your driver's license ever been suspended?

5 A No, ma'am.

6 Q Were you aware of how Israel Martinez was paid  
7 by Salinas Express?

8 A No, ma'am.

9 Q How were you paid by Salinas Express?

10 A By check.

11 Q Is that a personal check from your brother?

12 A No. Salinas Company, it's a company check.

13 Q And how were you paid as far as, like, by the  
14 mile or by the job?

15 A By the mile.

16 Q Do you know what that rate is?

17 A It depends, changes.

18 Q Who sets the rate?

19 A The company do.

20 Q Salinas Express?

21 A The brokers, whoever gives you the load.

22 Q And would Salinas Express, would they take a  
23 percentage of that so they are paid by the broker and --  
24 strike that.

25 So Salinas Express would get work through a

1 broker?

2 A That's correct.

3 Q And the broker would pay Salinas Express?

4 A Yes, ma'am.

5 Q And Salinas Express would pay you?

6 A Yes, ma'am.

7 Q Did Salinas Express keep a percentage of what  
8 the broker paid them?

9 A Yes, ma'am.

10 Q Do you know what that is?

11 A I think it's ten percent.

12 Q And is that on every job?

13 A Yes, ma'am.

14 Q What brokers does Salinas Express use?

15 A We got Warner Enterprise, C.H. Robinson. I  
16 think that's it right now.

17 Q Did you ever pay Israel Martinez directly for  
18 any jobs?

19 A I paid him once.

20 Q And what was that for?

21 A They did a load on my truck.

22 Q Do you know when that was?

23 A That was in -- I'm not sure, ma'am. It was this  
24 year. I'm not sure exact date.

25 Q In 2016?

1 A Yes, ma'am.

2 Q Do you know when he stopped working for Salinas  
3 Express?

4 A I'm not sure.

5 Q Do you know why?

6 A Not sure.

7 Q We're here about an incident that happened at a  
8 rest stop in Virginia on October 26th, 2015. Do you  
9 remember that incident?

10 A Yes, ma'am.

11 Q Where had you been -- my understanding is that  
12 your Salinas Express truck had broken down and was stopped  
13 at that rest area?

14 A That's correct.

15 Q And had you delivered a load prior to that,  
16 prior to your truck breaking down?

17 A Like, what do you mean?

18 Q Well, you were on your way back to Texas?

19 A Yes, ma'am.

20 Q And where had you been prior? Had you made a  
21 delivery somewhere?

22 A I think in Maryland.

23 Q In Chester Town?

24 A Yes, ma'am, Chester Town.

25 Q Do you know what you delivered?

1 A Not sure, ma'am.

2 Q The unit you drive, is that Number 110?

3 A Yes, ma'am.

4 (Exhibit marked for identification as  
5 Deposition Exhibit Number 9.)

6 Q (By Ms. White) If you can take a look at it,  
7 what's been marked for identification as Exhibit Number 9.

8 Is this a copy of the load that you had  
9 delivered to Chester Town, Maryland?

10 A Yes, ma'am.

11 Q And so had you delivered the load to Creafill  
12 Fibers Corp? Is that what you delivered?

13 A No, ma'am, I loaded there, ma'am.

14 Q Oh, that's what you loaded?

15 A I loaded there to Laredo.

16 Q So had you -- had you dropped something off in  
17 Chester Town or you just went to --

18 A No, ma'am. I'm not sure, ma'am. I know I  
19 loaded here in Chester Town going to Laredo.

20 Q Okay. So Chester Town was the place where you  
21 had been most recently before the accident?

22 A Yes, ma'am.

23 Q And it looks like you picked that up on  
24 October 20th, 2015?

25 A Yes, ma'am.

1 Q And did you leave Chester Town on that same day,  
2 October 20th, 2015?

3 A Yes, ma'am.

4 Q Do you know what time you left Chester Town?

5 A Not sure.

6 Q And so then you would have gotten around D.C.  
7 and then started heading south on Interstate 81?

8 A Yes, ma'am.

9 Q And then at some point did you run into Eddie  
10 Lozano?

11 A Yes, ma'am.

12 Q Do you know where?

13 A I'm not sure, ma'am.

14 Q If Eddie said it was somewhere around Raphine,  
15 does that sound familiar?

16 A I'm not sure.

17 MS. WHITE: Mark this as Exhibit 10.

18 (Exhibit marked for identification as  
19 Deposition Exhibit Number 10.)

20 Q (By Ms. White) And can you take a look at what's  
21 been marked as Exhibit 10 to the deposition?

22 A You can't see nothing. You can't tell what it  
23 says.

24 Q Yeah, it is kind of hard. I don't know if my  
25 copy is a little better.



1                   Is this copy a little better? Can you see  
2   that copy? It might be more -- yeah, this copy is a  
3   little bit darker. Maybe we'll switch these. Is that one  
4   a little better?

5           A     A little better.

6           Q     Is this a copy of your driver's log starting on  
7   October 18th, 2015 and continuing until the October 31st,  
8   2015?

9           A     Yes, ma'am.

10          Q     And so according to your driver's log, it says  
11   you were off duty on October 18th, 2015, correct?

12          A     Yes, ma'am.

13          Q     And then on the 19th, can you -- do you know  
14   where you were on the 19th?

15          A     No, I can't really tell.

16          Q     And on the 20th it shows you in Chester Town?

17          A     I was in Maryland on the 19th.

18          Q     You were in Maryland on the 19th?

19          A     Monrovia is what this says.

20          Q     What is that?

21          A     This says Monrovia, MD, on the 19th, from what I  
22   can tell from this.

23          Q     So you were in Monrovia, Maryland and then  
24   you're in Chester Town?

25          A     I think that's right and then from there Chester

1 Town.

2 Q Does it show anywhere on here where and when you  
3 broke down?

4 A No, ma'am.

5 Q I see on the 21st there's a marking for Raphine,  
6 Virginia and then Fincastle, Virginia?

7 A Yes, ma'am, I see that one.

8 Q Is that where and when you broke down?

9 A Yes, ma'am.

10 Q How did you come across Eddie Lozano when you  
11 were on your way back to Texas?

12 A I met him at a truck stop.

13 Q Do you know which one?

14 A Not sure, ma'am.

15 Q Had you guys agreed to meet up or you just  
16 pulled in and said, there's Eddie?

17 A No, ma'am, I talked to him.

18 Q On a CB or?

19 A On the phone.

20 Q On the phone.

21 Do you know -- so did you call him?

22 A I don't remember. He called me or I called him.  
23 I'm not sure.

24 Q And is that when you reported to him that you  
25 were having trouble with your truck?

1 A Yes, ma'am.

2 Q And what kind of trouble were you having with  
3 it?

4 A My differentials were making a noise.

5 Q And had you guys agreed to meet up at that truck  
6 stop?

7 A I was already parked at the truck stop and he  
8 pulled up there with me.

9 Q And so you had called him to let him know where  
10 you were?

11 A I'm not sure, ma'am.

12 Q And so you meet up at the truck stop and then  
13 what's your plan from there?

14 A We just left -- follow me going up -- coming  
15 down.

16 Q So his plan -- your plan was for him to follow  
17 you back to Texas?

18 A Uh-huh.

19 Q Yes?

20 A Yes, ma'am.

21 Q To make sure everything went okay?

22 A Yes, ma'am.

23 Q But at some point did your truck become  
24 undriveable?

25 A Yes, ma'am. Like, probably like an hour coming

1 down or 30 minutes, whatever, I'm not sure.

2 Q Did that cause you to pull over to the side of  
3 the road?

4 A Yes, ma'am.

5 Q Were you trying to get into the rest area?

6 A Yes, ma'am.

7 Q Did -- did Eddie actually have to tow you into  
8 the rest area?

9 A I'm not sure, ma'am.

10 Q Or do you recall driving in?

11 A I was at the ramp and I was parked at that ramp  
12 for a while there already.

13 Q All right. We'll mark a copy of the overhead  
14 map that we've been using as Exhibit 11.

15 (Exhibit marked for identification as  
16 Deposition Exhibit Number 11.)

17 Q (By Ms. White) I show you an overhead photograph.  
18 Do you recognize that as an overhead photograph of the  
19 area, the rest area where this all happened?

20 A Yes, ma'am.

21 Q And there's a black Sharpie marker there in  
22 front of you. Can you --

23 MS. WHITE: Does anyone else need a copy or  
24 do you have a copy from yesterday?

25 MR. DUNN: I have a copy.

1 MR. FRANKL: I don't have a copy.

2 MR. DUNN: It's the same one.

3 MS. WHITE: Yes, exact same one.

4 Q (By Ms. White) So did you stop your truck  
5 somewhere on the entrance ramp to -- when it was broken  
6 down?

7 A Yes, ma'am.

8 Q Do you know where that was, approximately?

9 MR. FRANKL: Just to clarify, you're saying  
10 when it initially broke down?

11 MS. WHITE: Yes.

12 A I'm not sure. More or less.

13 Q So you just made a line there where,  
14 approximately, you had stopped your truck when it broke  
15 down?

16 A Yes, ma'am.

17 Q Can you just put a one, like, on top and can you  
18 hold it up for the camera?

19 A Put a one?

20 Q Yes, put a one, and sort of hold it up for the  
21 camera to see, and sort of point where you just drew that.

22 A (Indicating).

23 Q Great. All right.

24 And so then Eddie had to tow you in the  
25 rest of the way to the rest stop?

1 A No, ma'am.

2 Q What happened?

3 A Virginia Highway Patrol got there and told me  
4 that I had five minutes to move my truck from there or he  
5 was going call a wrecker to tow it.

6 Q And then, so then what happened then?

7 A Well, I told him I couldn't move my truck, it  
8 was broke down because I put all my reflecters and  
9 everything on it, and he told me, no, I think you're just  
10 lying, you just put out your reflectors so you could go to  
11 sleep there. Like, you can't park there. Is said, my  
12 truck's broke. So I had to show him. I showed him my  
13 truck was broke. I had put it in gear and the truck  
14 wouldn't move, just started making that noise because the  
15 differential were broke. So he told me, well, I'm going  
16 to give you five minutes. I'm going to come back around  
17 and if you are still here I'm going to tow you away.

18 So when the highway patrol was leaving a  
19 truck was pulling out from the parking area, so I just  
20 rolled my truck down like it's going down the hill, so I  
21 just rolled it in there.

22 Q So Eddie didn't have to --

23 A No, ma'am.

24 THE VIDEOGRAPHER: We're off the record at  
25 10:01 a.m.

1 THE VIDEOGRAPHER: We are back on the  
2 record. The time is 10:13 in the morning and you may  
3 continue with the deposition, please.

4 Q (By Ms. White) All right. After our little  
5 excitement, power surge.

6 I think you were explaining how you moved  
7 your vehicle after the state trooper told you to move. So  
8 how did that happen?

9 A After the state trooper left, my truck rolled  
10 down the parking lot and I just rolled my truck in.

11 Q Did Eddie assist in that in any way?

12 A No, ma'am.

13 Q And do you see on this map where you eventually  
14 parked your truck?

15 A Yes, ma'am.

16 Q And can you draw a rectangle where you parked  
17 your broken down Salinas truck?

18 A (Indicating).

19 Q And can you just put a two on that and show that  
20 to the camera --

21 A (Complies.)

22 Q -- and point where you did that.

23 So is that sort of where there's already a  
24 truck in the overhead photo?

25 A Yes, ma'am.

1 Q So, and that would be on the right side of where  
2 the trucks park?

3 A Yes, ma'am.

4 Q And then what did you do after you parked?

5 A I parked and I left with Eddie.

6 Q And had you called Rudy at all before you guys  
7 left?

8 A I'm not sure, ma'am.

9 Q Did you at some point talk to Rudy?

10 A Yes, ma'am.

11 Q As you're on your way back to Texas?

12 A Yes, ma'am.

13 Q What conversation did you guys have?

14 A I just told him that I was broke down in  
15 Virginia.

16 Q And what was his response?

17 A That he was out of town, he couldn't help me.

18 Q He couldn't help you.

19 A Yes, ma'am.

20 Q And did he have any suggestion for how to fix  
21 the situation?

22 A No, ma'am.

23 Q Did you tell him what you were planning to do?

24 A No, ma'am.

25 Q Did you -- how many times did you talk to him on



1 your way back to Texas?

2 A I'm not sure, ma'am.

3 Q More than once?

4 A I'm not sure.

5 Q What phone were you calling him from?

6 A I'm not sure, ma'am.

7 Q Was it your cell phone?

8 A I'm not sure.

9 Q Do you have a cell phone?

10 A Yes, ma'am.

11 Q What's that phone number at the time?

12 A (956)999-6537.

13 Q And who's the carrier?

14 A AT&T.

15 Q And did Rudy have a cell phone at the time?

16 A Yes, ma'am.

17 Q And do you know that phone number?

18 A No, ma'am.

19 Q So at some point you get back. Does Eddie  
20 deliver his load somewhere?

21 A We deliver in Laredo.

22 Q Do you know what he was carrying?

23 A Not sure, ma'am.

24 Q And from Laredo where did you guys go?

25 A From Laredo we go to Zapata.

1 Q And what do you guys do there?

2 A I pick up Israel Martinez there and I take off  
3 to Weslaco in my pickup.

4 Q Had you called Israel or did Rudy call Israel?

5 A I called Israel.

6 Q Did Rudy ever talk to Israel?

7 A I'm not sure, ma'am.

8 Q So Israel would know better than you do whether  
9 he talked to Rudy or not?

10 A I'm not sure.

11 Q And why did you pick up Israel?

12 A To, so he could help me out.

13 Q What was your plan at that time?

14 A To go pick up my truck and help me come back  
15 down here.

16 Q And how were you planning to go get your truck?

17 A Well, I had already talked to my cousin Sergio  
18 and he lent me his truck.

19 Q And Sergio agreed to lend you his truck?

20 A Yes, ma'am.

21 Q Did you let Rudy know that you were borrowing  
22 Sergio's truck?

23 A No, ma'am.

24 Q So you drove your personal vehicle to McAllen?

25 A Weslaco.

1 Q Weslaco. And Israel, did he ride with Eddie?

2 A He drove with Eddie.

3 Q So did you leave your personal vehicle in  
4 Weslaco?

5 A Yes, ma'am.

6 Q And you drove back the SMC truck?

7 A Yes, ma'am.

8 Q Did you meet Eddie and Israel somewhere?

9 A At a truck stop.

10 Q In McAllen?

11 A Weslaco.

12 Q Was there a reason why you got, why they just  
13 didn't go to the SMC facility?

14 A Because roads were flooded, or there was some  
15 type of weather. I don't remember.

16 Q Had you all originally intended just to meet at  
17 the SMC facility?

18 A Yes, ma'am.

19 Q And who gave you the keys to the SMC truck?

20 A Sergio.

21 Q And so then you drove the SMC truck to the truck  
22 stop to meet Israel and Eddie?

23 A Yes, ma'am.

24 Q And then did you all attempt to hook up Eddie's  
25 tractor to the SMC tractor?

1 A Yes, ma'am.

2 Q Did you -- were you successful in doing that?

3 A No, ma'am.

4 Q What did you do then?

5 A I called Sergio to go help us out.

6 MR. DUNN: I'm sorry?

7 A I called Sergio to go help us out to go hook up  
8 the truck.

9 Q And did he come to the truck stop?

10 A Yes, ma'am.

11 Q And did he show you all how to hook them up?

12 A Yes, ma'am.

13 Q Did he physically operate the wench?

14 A Yes, ma'am.

15 Q So when you left the truck stop, the Salinas  
16 Express tractor was hooked up to the SMC tractor?

17 A Yes, ma'am.

18 Q And it was being towed by it?

19 A Yes, ma'am.

20 Q And where did you guys go then?

21 A To Virginia.

22 Q Did you make another stop?

23 A In Houston.

24 Q And why did you guys go to Houston?

25 A Picked up my cousin there.

1 Q Is that Art Gutierrez?

2 A Yes, ma'am.

3 Q Is he Sr. or Jr.?

4 A Sr.

5 Q And his full name is Arturo --

6 A Arturo.

7 Q -- Gutierrez.

8 Do you know where he lives in Houston?

9 A I'm not sure, ma'am.

10 Q Had you called him to let him know you were  
11 going to come pick him up?

12 A Yes, ma'am.

13 Q And Art's a mechanic?

14 A A mechanic.

15 Q Does he have his own business?

16 A No, ma'am.

17 Q He just works for himself?

18 A For himself, yes. Well, for different  
19 companies, I guess, whoever calls him.

20 Q And does he have his own shop?

21 A No, ma'am.

22 Q When did you call Art, when you were already on  
23 the way to Houston or before you went to left?

24 A I'm not sure, ma'am.

25 Q And what was the conversation that you had when

1     you called Art?

2           A     Just told him I was broke down and I needed  
3     help, like, if he would help me hook up my truck over  
4     there in case I needed something else, and he agreed to  
5     go.

6           Q     So you picked up Art in Houston and headed to  
7     Virginia?

8           A     Yes, ma'am.

9           Q     Do you know what time it was when you left to  
10    Houston?

11          A     I'm not sure.

12          Q     Do you know what day it was?

13          A     I'm not sure.

14          Q     How long did it take you to get from Houston to  
15    Virginia?

16          A     I'm not sure, ma'am.

17          Q     How long does it usually take to get from  
18    Houston to Virginia?

19          A     It depends.

20          Q     What does it depend on?

21          A     If you're in a hurry or not.

22          Q     Were you guys in a hurry?

23          A     Not really.

24          Q     Did it take more than one day?

25          A     I'm sure.

1 Q Who drove?

2 A Israel Martinez and myself.

3 Q And you were driving the SMC tractor?

4 A Yes, ma'am.

5 Q As you're on your way to Virginia, did you have  
6 anymore conversation with Rudy?

7 A Not sure, ma'am.

8 Q Did you ever let Rudy know what your plan was?

9 A No.

10 Q Was he not concerned with how to make the  
11 delivery?

12 A I'm not sure, ma'am.

13 Q Well, it's his company?

14 A (Nods head.)

15 Q Does Rudy ever check in with you guys when you  
16 are on the road?

17 A No, we check in with him.

18 Q Okay. And did you check in with him at all as  
19 you're driving to Virginia?

20 A No, ma'am.

21 Q Do you generally check in with Rudy everyday  
22 when you're on the road?

23 A When I'm pulling his loads, yes. I wasn't  
24 working for him, so I don't have to call him.

25 Q Well, you were towing his tractor?

1 A Yeah, but you're not pulling his load.

2 Q Well, you were going to get his load to deliver  
3 it to Texas; is that not true?

4 A Yeah, that's correct.

5 Q Okay. Ultimately, that was the point of the  
6 trip was to be able to go get the load and bring it to  
7 Texas?

8 A And bring my truck home.

9 Q Both. And the load was ultimately delivered to  
10 Texas --

11 A That's correct.

12 Q -- as a result of all this?

13 A (Nods head.)

14 Q Yes?

15 A Yes.

16 Q So at some point you all arrive at the rest area  
17 in Virginia?

18 A That's correct.

19 Q Who was driving when you arrived?

20 A I'm not sure.

21 Q Before this accident happened had you ever asked  
22 Israel Martinez to help you out on a job?

23 A No, ma'am.

24 Q So when you arrived you would have been headed  
25 north on Interstate 81 and would have had to get off at an



1 exit and turn back south?

2 A Yes, ma'am.

3 Q And you entered the rest area, correct?

4 A That's correct.

5 Q And your truck, the Salinas Express truck was  
6 still there?

7 A Yes, ma'am.

8 Q Where you left it?

9 A Yes, ma'am.

10 Q And did you park the SMC tractor somewhere?

11 A Yes, ma'am.

12 Q And were you the one who parked it?

13 A I'm not sure, ma'am.

14 Q Do you know where it was parked?

15 A I don't remember.

16 Q Was it -- do you know if it was parked in front  
17 of the Salinas Express tractor or beside it?

18 A I don't remember. It was more to the front, but  
19 I don't remember where exact.

20 Q What's that?

21 A It was past the rest area, like, more to the  
22 front. I just don't remember exactly where.

23 Q Somewhere southbound?

24 A Yes, ma'am.

25 Q And then what did you guys proceed to do?

1 A I unhooked my truck.

2 Q The Salinas Express?

3 A Unhooked it and -- well, actually, we unhooked  
4 Eddie's truck first. We unhooked that one and then we  
5 were going to hook my truck and we pulled my truck out.

6 Q All right. So you unhooked Eddie's truck from  
7 the SMC tractor?

8 A That's correct.

9 Q And then did Eddie park his truck?

10 A I'm not sure. I was unhooking mine. I'm not  
11 sure where he parked.

12 Q So then you unhooked your Salinas Express  
13 tractor from its load?

14 A Yes, ma'am.

15 Q And then were you able to move it out of the way  
16 a little bit?

17 A No, the SMC truck pulled me out.

18 Q So you had Eddie pull --

19 A No, ma'am, Israel pulled me out.

20 Q Israel. And did you do that with the wench or  
21 chains?

22 A With the chains.

23 Q And then so did you hook up Eddie's truck to  
24 the, to the load?

25 A Yes, ma'am.

1 Q And then did you guys move that load at all or  
2 was it stayed parked where it was?

3 A I think Eddie moved, like, more to the front.

4 Q More southbound?

5 A More southbound.

6 Q And do you know did you move it to the left or  
7 right side?

8 A Not sure. I think it was the left.

9 Q And for point of reference, when I say left or  
10 right side, that would be looking southbound?

11 A Yes, ma'am.

12 Q And then did you attempt to hook up the SMC  
13 tractor to your broken down tractor?

14 A Yes, ma'am.

15 Q And how did you -- did that, was that eventually  
16 accomplished?

17 A Yes, ma'am.

18 Q How did you guys accomplish that?

19 A We hooked it up, got it hooked up again and  
20 Israel parked it where my broken down truck was parked in  
21 the beginning; he parked back in that area.

22 Q So when they were hooked up eventually they were  
23 back to back?

24 A Yes, ma'am.

25 Q So at some point the SMC tractor had to be

1 turned around to face north?

2 A It was facing north.

3 Q Yeah. But at some point it had to be turned  
4 around to do that within the rest area?

5 A Well, yes, ma'am.

6 Q Who did that?

7 A Israel.

8 Q And how did he do that?

9 A I'm not sure, ma'am.

10 Q Did you watch him do that?

11 A No, ma'am.

12 Q Were you watching out for him make sure he  
13 didn't hit anything else?

14 A No, ma'am.

15 Q Did Art check out your truck at all before you  
16 guys attempted this hooking the two tractors up?

17 A No, ma'am.

18 Q Did he ever look at your truck while in the rest  
19 area?

20 A Just hooked it up there, that's all he did.

21 Q So was it ever your intention to see if he could  
22 fix the truck before towing it back?

23 A It wasn't fixable.

24 Q So what was the point of him coming along?

25 A To help me, like, he was a mechanic, in case

1 something was locked on it or something, I don't know,  
2 like, just to help. But truck wasn't going to get fixed  
3 there.

4 Q Who helped in attaching the SMC tractor to your  
5 broken down Salinas tractor?

6 A We all hooked it up.

7 Q And when you say we all, would that be Eddie,  
8 you, Israel?

9 A Israel and Art, the four of us.

10 Q And so at some point when you're all done, it  
11 was parked where your broken down tractor had been?

12 A Yes, ma'am.

13 Q And where you have it marked on the map?

14 A Yes, ma'am.

15 Q And then after that's done, did you guys have  
16 any conversation about what to do next?

17 A No, ma'am. I just told Israel that we had to  
18 turn the truck around, and we went inside to wash up in  
19 the rest room. I think it was me and Art that went inside  
20 and as we were coming out, Israel was already like trying  
21 to turn the truck around.

22 Q Where was Eddie at?

23 A I'm not sure, ma'am.

24 Q When you told Israel that you had to turn the  
25 truck around, did you have any ideas and was there any

1 discussion about how to do that?

2 A No, ma'am.

3 Q How did you think that it was going to be turned  
4 around?

5 A Well, I thought I was going to back up in the  
6 car area, like, pull up and back the truck back up and  
7 then turn around inside the rest area.

8 Q So your idea what you thought would happen was  
9 to pull up and then --

10 A Back up until --

11 Q -- sort of where the arrow is leading to the car  
12 area?

13 A Yes, ma'am.

14 Q Were there any, as you're going in the entrance  
15 ramp, there's a shoulder on the right-hand side, correct?

16 A That's correct.

17 Q Were there trucks parked along there?

18 A Yes, ma'am.

19 Q Do you know how many?

20 A Not sure, five or six.

21 Q So was it very, very full on that?

22 A It was very full.

23 Q Were there any parked on the right hand sort of  
24 shoulder?

25 A Left hand.

1 Q On the left-hand side?

2 A Yes, ma'am.

3 Q There were?

4 A Yes, ma'am.

5 Q Do you know how many?

6 A Not sure, one or two.

7 Q Do you know how far they extended into the  
8 entrance?

9 A Not sure.

10 Q So you and Art went in to wash up?

11 A Yes, ma'am.

12 Q After you -- and when you left Israel, was the  
13 vehicle still parked in the same space?

14 A When I left, yes, ma'am.

15 Q And did you have any conversation when you left,  
16 like, I'll be right back or whatever?

17 A I just told them I'm going to wash up, come out,  
18 and try to turn the truck around.

19 Q And how long were you in the rest room?

20 A I'm not sure, ma'am.

21 Q So what was Israel doing when you came out?

22 A He was already pulling up the ramp.

23 Q Already pulling up the entrance ramp?

24 A Entrance ramp.

25 Q How far had he gotten?

1           A     It was pretty far, already, like, close to the  
2     shoulder, like facing out.

3           Q     Can you estimate on this map how far he had  
4     gotten?

5           A     (Indicating).

6           Q     Did you just put a mark?

7           A     I guess, like, right there, more or less.

8           Q     All right. Is that the furthest point that he  
9     got along the entrance ramp or did he ever pull any  
10    further forward?

11          A     That's all I saw. I'm not sure.

12          Q     Okay.

13                   MR. FRANKL: When you say forward or  
14    furthest he got, you mean the furthest north?

15                   MS. WHITE: Yes, exactly.

16                   MR. FRANKL: Wanted to clarify the  
17    question.

18                   MS. WHITE: Yeah.

19          Q     (By Ms. White) So was he straight or had he  
20    already started to turn?

21                   MR. HEARN: Object to form.

22          A     He was, like, kind of facing to the shoulder.

23          Q     To the --

24          A     Like facing out, like, to 81.

25          Q     All right. And then, so then what happened?



1           A     When I came out I saw him, like, already facing  
2 out, coming out, when Art came out and I saw some lights  
3 coming, like, when I saw him like this, I thought he was  
4 going to go on the highway, I had just walked out. So I  
5 saw a car coming so I started running over there. I  
6 didn't want him go in.

7                     But then I was trying -- I saw a little  
8 white car parked like on the left lane and I just saw the  
9 little pickup like just go try avoid hitting the car, and  
10 it hit the truck on the shoulder.

11          Q     Did you yell anything at Israel as he was  
12 attempting this maneuver?

13          A     Yes, ma'am.

14          Q     What did you yell at him?

15          A     I can't recall. Stop or something.

16          Q     Where were you standing when you yelled stop?

17          A     Probably like halfway down the parking lot.

18          Q     Can you put a small circle where you were  
19 standing?

20          A     (Complies.)

21          Q     And that's where you were when you yelled stop?

22          A     More or less, yes, ma'am.

23          Q     When you yelled stop, was he at that point that  
24 you've indicated further up north?

25          A     Well, he was, like I say, he was parked there.

1 Q Okay. Can you flip it up and show the camera.

2 So can you point to where you were standing  
3 when you yelled stop?

4 A Over here (Indicating.)

5 Q And where was Israel when you yelled stop?

6 A Over here.

7 Q Where was Art --

8 A I'm not sure.

9 Q -- when you yelled stop?

10 A I'm not sure.

11 Q And do you know where Eddie was at during any of  
12 this?

13 A No, ma'am.

14 Q Had Israel entered the right lane of Interstate  
15 81 South at all when you yelled stop?

16 A I'm not sure, ma'am.

17 Q Did you ever see him enter the right lane of  
18 Interstate 81 South?

19 A No, ma'am.

20 Q So I'm -- I want to be clear. From your vantage  
21 point, do you know whether he entered 81 South?

22 A No, ma'am.

23 Q You don't know, you couldn't see?

24 A I couldn't see.

25 Q So what -- so was he stopped there when you

1     yelled stop? Did he stop?

2           A     No, he was parked already. I just told him  
3     because I saw the car coming. I didn't know he was going  
4     to go in or not, so I just, like, started running over  
5     there. As I started running like that, I just saw, like I  
6     say, the white car stopped on the left lane. Then I saw  
7     the pickup coming out and to avoid hitting that car, he,  
8     like, went around and started swerving went sideways and  
9     hit the front bumper of the truck with the tailgate with  
10    the back bumper.

11          Q     So did you ever see Israel's vehicle in motion?

12          A     No, ma'am.

13          Q     So you saw a white vehicle coming in the left  
14    lane?

15          A     Yes, ma'am.

16          Q     And, and had it completely stopped in the left  
17    lane?

18          A     It came to a dead stop.

19          Q     Do you know what kind of vehicle it was?

20          A     I'm not sure. It was a white car.

21          Q     And then you saw the headlights of the Toyota  
22    truck?

23          A     I don't know what it was. It was a little  
24    pickup.

25          Q     A little pickup truck?